

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF FLORIDA  
TALLAHASSEE DIVISION

TONYA L SIMMONS,

Plaintiff,  
v. CASE NO. 4:11-cv-295-MP-GRJ

TOBY TROWBRIDGE,  
Sheriff

Defendant.

/

**REPORT AND RECOMMENDATION**

Plaintiff, a prisoner presently incarcerated at FCI Tallahassee, has filed a form complaint pursuant to 42 U.S.C. § 1983 against Toby Trowbridge, the Sheriff of Madison County, Mississippi, alleging that she was exposed to harmful mold while she was confined at the Madison County Jail and that she was denied her constitutional right to equal protection. The only named Defendant is located in Madison County, Mississippi, and the events underlying the Complaint occurred in Madison County, Mississippi. Doc. 1.

Venue is proper in a civil action not founded solely on diversity only in a judicial district: (1) where any defendant resides, if all defendants reside in the same state; (2) where a substantial part of the events giving rise to the claims occurred; or (3) where any defendant may be found, if there is no district in which the action may otherwise be brought. 28 U.S.C. § 1331(b). Madison County, Mississippi, is within the jurisdiction of the United States District Court for the Southern District of Mississippi, Jackson Division. Because the sole named Defendant is in Madison County and the events underlying the complaint occurred in Madison County, this case should have been filed

in that District. See 28 U.S.C § 1391(b).

Pursuant to 28 U.S.C. § 1406(a) where, as here, a case has been filed in the wrong venue, “[T]he district court of a district in which is filed a case laying venue in the wrong ... district shall dismiss, or if it be in the interest of justice, transfer such case to any district ... in which it could have been brought.” In view of the fact that the Plaintiff is proceeding *pro se*, transfer of this case rather than dismissal would be in the interests of justice.

In light of the foregoing, it is respectfully **RECOMMENDED** that pursuant to 28 U.S.C. § 1406(a) this case be **TRANSFERRED** to the United States District Court for the Southern District of Mississippi, Jackson Division.

**IN CHAMBERS** at Gainesville, Florida, this 21<sup>st</sup> day of June 2011.

s/Gary R. Jones  
GARY R. JONES  
United States Magistrate Judge

**NOTICE TO THE PARTIES**

Pursuant to Fed. R. Civ. P. 72(b)(2), a party may file specific, written objections to the proposed findings and recommendations within 14 days after being served with a copy of this report and recommendation. A party may respond to another party's objections within 14 days after being served with a copy thereof. Failure to file specific objections limits the scope of review of proposed factual findings and recommendations.